



5. On March 6, 2017, the Federal Circuit affirmed the 2015 Judgment (Dkt. No. 605);

6. On May 15, 2017, the Federal Circuit issued its mandate, which this Court received on the same date (Dkt. No. 609) (the “Mandate”);

7. On August 8, 2017, over two years after the jury’s verdict of infringement and after the Federal Circuit issued its mandate, this Court set aside the 2015 Judgment based on the Federal Circuit’s *T-Mobile* Decision<sup>1</sup>—a ruling issued in a different action finding ineligible different patent claims based on a § 101 defense that Sprint never pursued at trial (Dkt. Nos. 635 and 636);

8. The 2017 Judgment is based on clear error and will result in manifest injustice to Prism and, therefore, should be altered, amended or vacated under Rules 59(e) and/or 60(b);

9. A court may properly alter or amend its judgment pursuant to Rule 59(e) to correct a clear error or to prevent manifest injustice. *Collison v. Int’l Chem. Workers Union, Local 217*, 34 F.3d 233, 234 (4th Cir. 1994); *Duran v. Town of Cicero, Ill.*, 653 F.3d 632, 642 (7th Cir. 2011). The decision to amend a judgment under Rule 59(e) is left “to the sound discretion of the district court.” *Ira Green, Inc. v. Military Sales & Serv. Co.*, 775 F.3d 12, 28 (1st Cir. 2014). A court may also grant relief from judgment pursuant to Rule 60(b)(1) and (6) in instances of mistake or any other reason that justifies relief.

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<sup>1</sup> The “*T-Mobile* Decision” refers to the Federal Circuit’s June 23, 2017 decision in the matter *Prism Techs., LLC v. T-Mobile USA, Inc.*, 2016-2031, 2017 WL 2705338 (Fed. Cir. June 23, 2017). Prism intends to file a petition for *writ of certiorari* to the United States Supreme Court regarding the T-Mobile Decision.

10. Here, this Court's ruling that there is an overlap between the claims Prism asserted at trial against Sprint and those Prism asserted at trial against T-Mobile and addressed in the *T-Mobile* Decision is clear error;

11. The *T-Mobile* Decision does not apply to certain patent claims the jury found Sprint liable of infringing because: (i) T-Mobile asserted § 101 patent ineligibility only as an affirmative defense, not a counterclaim; (ii) the Federal Circuit confirmed during oral argument that its jurisdiction was limited to the claims asserted at trial against T-Mobile; (iii) Prism did not assert Claim 33 of the '345 Patent and Claim 7 of the '155 Patent in its separate trial against T-Mobile; and (iv) the T-Mobile Decision confirms that it applies only to the claims asserted at trial against T-Mobile.

12. For these reasons, the Court should alter, amend or vacate the 2017 Judgment, reinstate the 2015 Judgment and reconsider its denial of Prism's motion to enforce the 2015 Judgment in light of its granting of this motion.

13. This Motion is based upon Prism's Brief in Support of its Motion to Alter or Amend the Judgment Pursuant to Rule 59(e), Index of Evidence, Declaration and supporting exhibits, which have been filed contemporaneously herewith, as well as all pleadings, records and files herein which this Court may properly take judicial notice, and upon such other and further evidence and argument as the Court may receive prior to its decision.

WHEREFORE Prism moves the Court for an Order altering, amending or vacating the 2017 Judgment, reinstating the 2015 Judgment and reconsidering the Court's denial of Prism's motion to enforce the 2015 Judgment in light its granting of this motion.

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**CERTIFICATE OF SERVICE**

I hereby certify that counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system on this 1st day of September 2017.

*s/ Cristina Martinez*  
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